

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ALLEN HAMMLER,

Plaintiff,

vs.

ALLISON, et al.,

Defendants.

1:21-cv-00122-AWI-GSA-PC

**ORDER DENYING PLAINTIFF'S  
REQUEST TO RE-FILE COMPLAINT IN  
THIS ACTION SUBJECT TO SOUTHERN  
DISTRICT'S PRE-FILING ORDER  
(ECF No. 10.)**

**I. BACKGROUND**

Allen Hammler ("Plaintiff") is a state prisoner proceeding *pro se* with this civil rights action pursuant to 42 U.S.C. § 1983. On March 8, 2021, Plaintiff's application to proceed *in forma pauperis* was denied under 28 U.S.C. § 1915(g) and this case was dismissed without prejudice to re-filing the case with payment of the filing fee. (ECF No. 8.)

On March 10, 2021, Plaintiff filed a request to re-file the complaint in this action subject to the Southern District's pre-filing order calling Plaintiff vexatious. (ECF No. 10.) Plaintiff also lodged a proposed complaint. (ECF No. 11.)

**II. PLAINTIFF'S REQUEST**

Plaintiff requests leave to re-submit the complaint for this action subject to the pre-filing order issued in case no. 18-cv-0326-AJB-WVG (So. Dist. Cal. 2019); Hammler v. Alvarez, which calls Plaintiff "vexatious." (ECF No. 10.)

1 The Southern District's pre-filing order referred to by Plaintiff states that:

2 Allen Hammler must seek and obtain leave of the presiding judge of the  
3 appropriate Court, prior to filing any new actions, against any defendant, in any  
4 forum in the State of California, based upon, or related in any way, to lawsuits  
alleging civil rights violations, lawsuits against prison officials, or federal habeas  
petitions.

5 (Case no. 3:18-cv-00326-ABJ-WVG (So. Dist. Cal. 2019), Document 63 at 7:10-14.)

6 The Southern District's order directs Plaintiff to obtain leave of the presiding judge prior  
7 to filing *any new actions*, however re-filing the complaint in this action as requested by Plaintiff  
8 would not open a *new action*.<sup>1</sup> Therefore the Southern District's order is not applicable to  
9 Plaintiff's proposed complaint lodged on March 25, 2021 and as a result Plaintiff's request shall  
10 be denied.

11 Moreover, Plaintiff is reminded that the order dismissing this case, issued on March 8,  
12 2021, gave Plaintiff leave to re-file this case "with submission of the \$402.00 filing fee," and  
13 Plaintiff has not submitted the filing fee. (ECF No. 8 at 2 ¶ 3.)

14 **III. CONCLUSION**

15 Based on the foregoing, it is HEREBY ORDERED that Plaintiff's request, filed on March  
16 25, 2021, is denied.

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18 IT IS SO ORDERED.

19 Dated: March 29, 2021

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> The original Complaint for this case was filed on January 29, 2021. (ECF No. 1.)